IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 16TH MARCH 2007 / 25TH PHALGUNA 1928

WP(C).No. 8889 of 2007(G)

PETITIONER:

V.P.RASHEED, PROPRIETOR,
E ORIENTAL TIMBERS, HEAD OFFICE AT
N.H.BY PASS, EDAPPALLY, KOCHI 682 024.

BY ADV. SRI.SHAIJAN C.GEORGE
SRI.JOHN VIPIN
SMT.S.A.SHERLY
SMT.K.K.THULACY BHAI
SMT.SAJITHA GEORGE

RESPONDENTS:

1. **STATE OF KERALA, REPRESENTED BY THE SECRETARY, COMMERCIAL TAXES, THIRUVANANTHAPURAM.**
2. **THE CHIEF COMMISSIONER, C0MMERCIAL TAXES, THIRUVANANTHAPURAM.**
3. **THE DEPUTY COMMISSIONER (APPEALS), COMMERCIAL TAXES, ERNAKULAM.**
4. **THE DEPUTY COMMISSIONER INTELIGENCE, COMMERCIAL TAXES, ERNAKULAM.**
5. **THE ASSISTANT COMMISSIONER SPECIAL CIRCLE III, ERNAKULAM.**

BY SR.GOVERNMENT PLEADER SRI.MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C).No.8889 of 2007-G

Dated this the 16th day of March, 2007

JUDGMENT

The petitioner challenges Ext.P13 interim order passed by the third respondent in a stay application filed along with Ext.P12 appeal. In the said appeal, the petitioner challenges Ext.P2 penalty order on the allegation of delay in payment of tax. The petitioner has been ordered to pay double the amount of tax which will come to more than Rs.47 lakhs. The petitioner has already paid the tax for the relevant period. In view of the above position, I feel that the appellate authority should have granted stay on more liberal terms instead of directing the petitioner to pay 50% of the penalty amount. Having regard to the facts of the case, it is ordered that if the petitioner pays Rs.5 lakhs (Rupees five lakhs only) and furnish security for the balance amount, within one month from today, further recovery, pursuant to Ext.P2 shall be kept in abeyance till the disposal of Ext.P12 appeal. The petitioner shall co-operate with the appellate authority for early disposal of the appeal by not seeking unnecessary adjournments. The appellate authority shall endevour to dispose of the appeal as expeditiously as possible.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

MS